

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

KIRA WAHLSTROM,
Plaintiff

v.

ZURICH AMERICAN INSURANCE COMPANY
and AMERICAN GUARANTEE AND
LIABILITY INSURANCE COMPANY
Defendants

Civil No. 1:19-cv-12208-LTS
consolidated with
Civil No. 1:22-cv-10037-LTS

DEFENDANTS' TRIAL BRIEF

I. Motions in limine

Defendants filed their motions in limine on May 1, 2023, May 9, 2023 and June 2, 2023. The Court ruled on those motions on June 22, 2023.

II. Statement To Be Read To The Venire During Empanelment

This case is about whether an insurance company acted reasonably and in accordance with Massachusetts law in making settlement offers. The Plaintiff, Kira Wahlstrom, was raped in a parking garage of the Radisson Hotel in the Theater District of Boston at 2 a.m. on May 1, 2009. The Hotel and parking garage were owned by JPA IV Management Company, Inc. and managed and operated by JPA I Management Company, Inc. (collectively, "JPA"). Ms. Wahlstrom sued JPA alleging it was negligent with respect to providing adequate security at the parking garage. Defendant American Guarantee & Liability Insurance Company ("American Guarantee") was an excess insurer for JPA and was required under Massachusetts law to make reasonable settlement offers when the liability of JPA had become reasonably clear. Plaintiff alleges that American Guarantee failed to make reasonable settlement offers once JPA's liability had become reasonably clear. Defendants deny this and assert that: (1) JPA's liability was not reasonably clear because,

among other reasons, the extent of Ms. Wahlstrom's damages was not reasonably clear; and (2) even though liability was not reasonably clear, American Guarantee made a series of significant settlement offers that were reasonable and in compliance with Massachusetts law. Ms. Wahlstrom either rejected or did not respond to these offers.

I stress to you that this case is not about whether the security that JPA provided at the parking was adequate. This case is also not about compensating Ms. Wahlstrom for the injuries and distress she sustained as a result of the rape. Ms. Wahlstrom has been compensated for any injuries and distress she sustained due to the rape. Rather, this is case is about whether American Guarantee acted reasonably with respect to its attempts to settle Ms. Wahlstrom's claim against JPA.

III. All Potential Witnesses And Their Location

1.	Stephen J. Harris Zurich American Insurance Co. P.O. Box 968046 Schaumburg, IL 60196
2.	William Berg Zurich American Insurance Co. P.O. Box 968046 Schaumburg, IL 60196
3.	Molly Horrigan Argo Group, U.S. Chicago, IL
4.	Laurence Kenney Michael Kerrigan Sloane and Walsh, LLP One Boston Place Boston, MA 02108
5.	Scott Carroll Mark Aronsson Boyle Shaughnessy Law 695 Atlantic Avenue Boston, MA 02111
6.	The Honorable Anthony M. Campo, Jr. Massachusetts Superior Court

	Suffolk County Courthouse 3 Pemberton Square Boston, MA 02108
7.	Larry Goanos Andros Risk Services Point Pleasant Beach, NJ

IV. Proposed Voir Dire Examination

See Ex. A.

V. Requests For Jury Instructions

See Ex. B.

VI. Special Verdict Slip

See Ex. C.

DEFENDANTS,

ZURICH AMERICAN INSURANCE COMPANY
and AMERICAN GUARANTEE AND LIABILITY
INSURANCE COMPANY,
By its attorneys,

/s/ Allen N. David

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Date: June 23, 2023

CERTIFICATE OF SERVICE

I, Allen N. David, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be mailed by First Class Mail to those indicated as non-registered participants on this 23rd day of June, 2023.

/s/ Allen N. David

Allen N. David